

If a taxpayer can show the Department that a substantial change in the taxpayer's business has occurred which causes the taxpayer to anticipate that his average monthly tax liability for the reasonably foreseeable future will fall below the \$20,000 threshold for making quarter-monthly payments, then such taxpayer may petition the Department for a change in such taxpayer's reporting status. See 35 ILCS120/3. (This is a GIL).

December 7, 2006

Dear Xxxxx:

This letter is in response to your letter dated October 11, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

Request for permanent waiver on completing STS-74 (quarter-monthly payments)

On September 15, I wrote to the sales tax processing division requesting a waiver on quarter-monthly payments (see attached letter). This was followed by a phone call where they advised me that I write to you [sic] department requesting a permanent waiver due to the un-even nature of how ABC incurs its sales tax liability.

To help with making your decision the following provides a brief summary about the company, its transactions and why a waiver is being requested.

ABC sells high value wireless testing systems and software to customers in ABC's sector.

To demonstrate this point, in our last accounting year, over 50% of sales made had a sales values [sic] greater than \$100,000 (the highest was over \$2,000,000) and taking the combined value these sales, they [sic] accounted for 92% of the total Illinois safes revenue.

As well as having high value sales, the predictability of when these sales will take place is very difficult to forecast – other than we expect them to usually happen in the last week of a month – and therefore forecasting a sales tax liability, based on the sales in a month is not possible.

One feature of our sales is that the majority of sales (and hence the associated sales tax) occur in the last week of a month. This situation becomes extreme in the last week of the month at our half and full year. This is a common feature of sales in the software market when sellers have to hit targets and customers look to obtain a best price.

Therefore, whilst we have an average monthly sales tax of over \$20,000 it does not occur evenly during the year or to that matter, evenly though [sic] a month.

To illustrate this, the graph below shows the weekly sales tax ABC has incurred over the period from 1 May 05 to the end of August 06 in Illinois.

As you can see, the graph clearly shows the un-even [sic] nature of how ABC incurs sales tax.

Therefore, I am requesting the Illinois Department of Revenue, grant ABC a permanent waiver from quarter-monthly payments.

I hope that the above adequately describes our position and the reason for requesting a waiver, however, should you require any additional information please contact me by e-mail or though [sic] our office.

Thank you for your consideration in this matter and I look forward to getting it resolved quickly.

DEPARTMENT'S RESPONSE

On and after October 1, 2000, if the taxpayer's average monthly tax liability to the Department under this Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act, and the Service Use Tax Act, excluding any liability for prepaid sales tax to be remitted in accordance with Section 2d of this Act, was \$20,000 or more during the preceding 4 complete calendar quarters, the taxpayer shall file a return with the Department each month by the 20th day of the month next following the month during which such tax liability is incurred and shall make payment to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. 35 ILCS 120/3. Previously, the mandatory quarter monthly payment threshold was \$10,000 or more per month.

Please note that, on and after October 1, 2000, once applicable, the requirement of the making of quarter monthly payments to the Department by taxpayers having an average monthly tax liability of \$20,000 or more as determined in the manner provided above shall continue until such taxpayer's average monthly liability to the Department during the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability) is less than \$19,000 or until such taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar quarter period is less than \$20,000. However, if a taxpayer can show the Department that a substantial change in the taxpayer's business has occurred which causes the taxpayer to anticipate that his average monthly tax liability for the reasonably foreseeable future will fall below the \$20,000 threshold stated above, then such taxpayer may petition the Department

for a change in such taxpayer's reporting status. The Department shall change such taxpayer's reporting status unless it finds that such change is seasonal in nature and not likely to be long term. 35 ILCS 120/3.

Unfortunately, the Department has no statutory authority to waive or delay the implementation of these statutory provisions when the taxpayer's average monthly sales tax is over \$20,000.

If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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